IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWELFTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 5481 of 1999

Between:

Sree Ram Venkata Narayana S/o. Parandhamulu,

R/o. Warangal District.

..... PETITIONER

AND

1 The Labour Court, Rep. by Presiding Officer, Warangal District.
2 The Depot Manager, APSRTC, Warangal-I, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pleased to issue an order, direction or writ more particularly one in the nature of writ of Certiorari, and after calling for the records from the 1st respondent in I.D.No. 27/90 and quash the award dated 5-10-1991 on the file of the 1st respondent; and Consequently direct the Respondents to reinstate the petitioner into Service with Continuity of Service, Back wages and all other Attendant benefits.

Counsel for the Petitioner: MR.V.VISWANATHAM

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2:SMT P.RAJANI REDDY,

SC FOR APSRTC

The Court made the following:

ORDER:

This writ petition is filed by the workman being aggrieved by the award passed by the District Industrial Tribunal-cum-Labour Court at Warangal (hereinafter referred to as Labour Court) in I.D.No.27 of 1990, dated 05.10.1991, wherein the claim petition filed by the petitioner, under Section-2-A (2) of the Industrial Disputes Act, 1947, (hereinafter referred to as the Act), was rejected without granting any relief.

It is the case of the petitioner that he was appointed as Conductor on 28.05.1986 in the second respondent-Corporation and was attached to APSRTC Bus-Depot, Warangal-2. While so, on 06.07.1986, when he was conducting the bus on the route from Hanamkonda to Zafargadda, a check was exercised by the Checking officials at Thimmampet and found certain cash and ticket irregularities. Based on the charge-memo, the second respondent herein issued charge sheet on 21.07.1986. After conducting a detailed enquiry and following the formalities as required under the Regulations, the petitioner was removed from the service of the APSRTC with effect from 01.09.1987. Aggrieved by the same, he filed an appeal before the Appellate Authority and the same was rejected. Further, he filed a review before the Review authority and the said review was also dismissed on 09.03.1988. Therefore, having no other option, he filed claim petition under Section-2-A (2) of the Act, before the Industrial Tribunal-cum-Labour Court at Warangal, which was taken up on file as I.D.No.27 of 1990.

According to the petitioner, the Labour Court did not consider the evidence properly and came to an erroneous conclusion that the punishment imposed by the second respondent-Corporation was just and proper and dismissed the claim petition. Aggrieved by the same, the present writ petition is filed.

Learned counsel for the petitioner contends that the petitioner was appointed as Conductor on 28.05.1986 and just within two months from the date of appointment, the present misconduct was alleged against the petitioner. He contended that though the charges framed against the petitioner at the outset seems to be grave in nature, if they are examined in detail, it is not so. It is alleged that the petitioner failed to issue tickets to three passengers under Charge No.2 and one passenger under Charge No.3. But, the fact remains that those passengers have boarded the bus after the bus started moving. The petitioner was in the process of issuing tickets and in the meanwhile, the check was exercised. Therefore, dishonesty and misconduct in issuing the tickets cannot be attributed to the petitioner. He contended that even otherwise, if the charges are proved, this being the first misconduct on the part of the petitioner, the second respondent-Management ought to have taken a lenient view of the same, and awarding punishment of removal from service is disproportionate to that of the misconduct alleged against the petitioner. Looking from any angle, the award of the Labour Court does not stand scrutiny of this Court and therefore, the same is liable to be set-aside.

I have given my earnest consideration to the respective submissions made by the learned counsel on either side. Perused the award and other material made available on the record.

At the outset, I am of the opinion that the Labour Court while holding that the charges are proved, had not properly evaluated the circumstances of the case and also as to granting of any relief to the petitioner while exercising its powers under Section-11-A of the Act. Admittedly, this is the first irregularity committed by the petitioner. He gave some explanation for the same. According to the petitioner, the fare amount of Rs.0-75 paise for each passenger is collected after closing of the S.R. In this case, as noticed by the Labour Court, the

petitioner had taken some inconsistent stands as to the irregularities committed by him. Even assuming that the charges are proved, as found by the Disciplinary authority as well as the Labour Court, but in the absence of any past misconduct and the nature of allegations made against the petitioner, I am of the opinion that the punishment of removal of the petitioner from service is shockingly disproportionate to that of the misconduct proved against him. The Labour Court ought to have taken a lenient view of the matter and exercised its powers under Section-11-A of the Act and could have granted some relief. Therefore, the award passed by the Labour Court requires to be interfered with by this Court.

In the result, the award of the Labour Court is modified to the following extent: -

That the petitioner is entitled to reinstatement into service afresh without continuity of service, back wages and attendant benefits including notional increments till the date of his reinstatement. That the respondent-Corporation is directed to reinstate the petitioner into service within a period of two months from the date of receipt of a copy of this order.

The writ petition is allowed to the extent indicated above. No order as to costs.

(C.V.RAMULU, J)

12.07.2005

DR

That Rule nisi has been made absolute as above.

Witness the hon'ble Sri Bilal Nazki, the Acting Chief Justice, the Tuesday, the twelfth day of July, Two thousand and five.

To

1 The Labour Court, Rep. by Presiding Officer, Warangal District.
2 The Depot Manager, APSRTC, Warangal-I, Warangal District.

3 2 CCs to GP for Labour, High Court Buildings,

Hyderabad. (OUT)

4 2 CD copies